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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/754,066	01/07/2004	Sandra B. DeVore	None	6520

7590 04/11/2007

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EXAMINER	
SOLD, JENA A	
ART UNIT	**PAPER NUMBER**
3765	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/11/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)	
	10/754,066	DEVORE, SANDRA B.	
	Examiner	Art Unit	
	Jena A. Sold	3765	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *07 January 2004*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-36* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-36* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☒ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *16 June 2004* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *6/29/04*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Specification

1. The disclosure is objected to because of the following informalities:

Page 2, line 2: Replace "on" with "in."

Page 8, line 20: Replace "electro-luminescent wire 6" with "electro-luminescent wire 36."

Page 8, line 22: Remove "the" from the phrase "the its length when an alternating electric current is applied thereto."

Appropriate correction is required.

Claim Objections

2. Claim 11 is objected to because "and" should be replaced with "an."

3. Claim 24 is objected to because the phrase "said length of electroluminescent wire to emit light therefrom.such that light can pass through..." should be replaced by "said length of electroluminescent wire to emit light therefrom, such that light can pass through...."

Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 15, 18, 19, 22, and 23 rejected under 35 U.S.C. 102(b) as being anticipated by Hurwitz (U.S. Pub. No. 2001/0004808). Hurwitz discloses apparel and accessories using wire-like or flat electroluminescent lamps for illumination (Abstract). Specifically, regarding claim 15, Hurwitz discloses a wire-like electroluminescent lamp 2, present applicant's length of flexible electroluminescent wire operative to produce visible light in response to an applied electric current, produced by power source 6, including battery 8 and inverter 220 (page 4, para. 76 and 77). As visible in Figure 4, Hurwitz discloses jacket 22, present applicant's garment body, wherein electro-luminescent lamp 2 is secured thereto and power unit 6 is arranged within pocket area 24, present applicant's pouch sized and adapted to receive and support the electric power source.

5. Regarding claim 18, Hurwitz discloses electroluminescent lamps 2 may be secured to diving goggles 36 (page 5, para. 88) where, as visible in Fig. 7, said lamps 2 frame the goggle lenses. Hurwitz additionally discloses, if said lamps 2 are secured to goggles 36, pocket 35 may be arranged on a band on the side of the goggles.

6. Regarding claim 19, Hurwitz discloses electroluminescent lamp 2 secured to clothing such as a jacket 22 (Fig. 4) wherein lamp 2 may be arranged in virtually any design including forms of lettering, present applicant's design feature (page 4-5, para. 84).

7. Regarding claims 22 and 23, as previously discussed, Hurwitz discloses power unit 6, including battery 8, also includes an inverter 220 for converting the DC power from the battery to AC power to turn ON the electroluminescent lamp (page 4, para. 77), thus anticipating present applicant's battery operated inverter producing an alternating electric current.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

8. Claims 1-3, 6, 7, 9-13, 16, 17, 24-27, 30-33 and 35-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hurwitz (U.S. Pub. No. 2001/0004808). Hurwitz discloses apparel and accessories using wire-like or flat electroluminescent lamps for illumination (Abstract). Specifically, for example, regarding claims 1, 16, and 24, Hurwitz discloses a wire-like electroluminescent lamp 2, present applicant's length of flexible cable that can emit visible light therefrom, may be accommodated in a transparent or semi-transparent sleeve 4A which may be permanently or removably secured to the product or garment body (see Figure 4), present applicant's length of piping having an open interior supported on said garment body page 3-4, para. 72). Hurwitz discloses power unit 6, including battery 8, present applicant's electric power

source, which may be arranged within or attached to various locations of the product, is connected to electroluminescent lamp 2 via leads, inherently operative when in an active state to cause said lamp 2 to emit light therefrom such that light can pass through said piping thereby to be visible to an observer (page 4, para. 76). Hurwitz additionally discloses the lamp 2 and/or the power unit 6 may be housed in a mesh cloth, which may be secured to the product (page 5, para. 85). However, it is unclear if the mesh cloth is in which lamp 2 may be housed describes the structure of sleeve 4A – that is, sleeve 4A is of mesh construction – or describes another embodiment wherein lamp 2 is housed in a mesh cloth rather than sleeve 4A. Even if the latter was intended, it would have been obvious to one having ordinary skill in the art in the time of the invention, in view of Hurwitz's specification, to house electroluminescent lamp 2 in a mesh sleeve comprising a sidewall formed by loosely woven strands, rather than either a transparent sleeve or a mesh cloth, because mesh material, like transparent material, allows the light from electroluminescent lamp 2 to shine through the material.

9. Additionally regarding claim 24, as well as claims 7 and 17, Hurwitz fails to disclose the size of the mesh cloth that may retain the light source. However, it is obvious to construct the mesh having openings of any size, depending on the amount of light desired to shine through, as it is well known within the apparel and illumination arts that larger mesh openings allow more light to escape, while a lamp enclosed by mesh having smaller openings produces a more muted light. Thus, as Hurwitz discloses wire-like luminescent lamp 2 is an effective way to illuminate people working during low visibility conditions for safety purposes, it would have been obvious to one having

ordinary skill in the art at the time of the invention to provide large mesh openings of about 1.6 mm by 1.6 mm, because the more light that the mesh permits to escape, the more visible the wearer of the garment is.

10. Regarding claims 2 and 26, as previously discussed, Hurwitz discloses electroluminescent lamps 2 may be secured to diving goggles 36 (page 5, para. 88) where, as visible in Fig. 7, said lamps 2 frame the goggle lenses.

11. Regarding claims 3 and 27, as previously discussed, Hurwitz discloses electroluminescent lamp 2 secured to clothing such as a jacket 22 (Fig. 4) wherein lamp 2 may be arranged in virtually any design including forms of lettering, present applicant's design feature (page 4-5, para. 84).

12. Regarding claim 6, Hurwitz discloses electroluminescent lamp 2 is unique in that it appears to be as one with the product (page 4, para. 75). As visible in Fig. 4, lamps 2 are incorporated into jacket 22, so as to form a portion of the garment body.

13. Regarding claims 9 and 25, Hurwitz discloses, with regard to jacket 22, power unit 6 arranged in pocket area 24, present applicant's pouch sized and adapted to receive and support said power source (page 5, para. 85).

14. Regarding claim 10, Hurwitz discloses wire-like electroluminescent lamp 2 is connected to power unit 6, wherein power unit 6 includes battery 8, anticipating present applicant's electroluminescent wire that produces light in response to an applied electric current produced by the battery 8 to which said lamp 2 is connected via leads 240 (Fig. 2C).

15. Regarding claims 11, 12, 30 and 31, Hurwitz discloses power unit 6, including battery 8, also includes an inverter 220 for converting the DC power from the battery to AC power to turn ON the electroluminescent lamp (page 4, para. 77), thus anticipating present applicant's battery operated inverter producing an alternating electric current.

16. Regarding claim 13, Hurwitz discloses the wire-like electroluminescent light source is not harmful to the environment and, therefore, non-toxic (page 1, para. 12).

17. Regarding claim 14, while Hurwitz discloses the electroluminescent wire may be disposed on glasses or goggles, framing the eye portion as in Figure 7 (see paragraph 10 above), Hurwitz discloses neither material nor the construction of said goggles. However, glasses and goggles are often formed having stiff wire portions framing the lenses and it would have, thus, been obvious to one having ordinary skill in the art to provide the goggles with stiff wire frames (to which said piping would then have been attached), because said stiff wire frame is resilient and known in the art to outline goggles and glasses.

18. Method claims 32, 33, 35, and 36 are inherent in the structure, as discussed above. Specifically, regarding claims 32 and 35, Hurwitz discloses securing sleeve 4A, present applicant's piping, to a garment, such as jacket 22, and placing electroluminescent lamp 2, present applicant's length of flexible cable, into said sleeve 4A so that when on/off switch 218 is turned on, power source 6, having battery 8, applies an electric current to said wire-like electroluminescent lamp 2, causing said lamp to emit light.

19. Additionally regarding claim 32, as well as claim 36, it would have been obvious for sleeve 4A to have a sidewall formed by loosely woven strands, specifically having mesh openings of about 1.6 mm by 1.6 mm, for the reasons discussed in paragraphs 8 and 9 above.

20. Regarding claim 33, while Hurwitz discloses sleeve 4A may be permanently secured to the product (garment) by stitching (page 4, para. 72), Hurwitz fails to more specifically disclose where and how sleeve 4A may be stitched to a garment, particularly that said sleeve 4A may be sewn at a seam between two garment portions. Horwitz, however, does disclose that sleeve 4A including electroluminescent lamp 2 may be secured to seams 42 of the tent (page 5, para. 89). Thus, it would have been obvious to one having ordinary skill in the art at the time of the invention to stitch sleeve 4A to the seams of a garment, just as sleeve 4A may be stitched to the seams of a tent, because attaching said sleeves within a product's seams provides a more secure connection than simply laying the sleeve atop the product and effectively integrates lamp 2 into the product or garment.

21. Claims 4-5, 20, 28 and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hurwitz (U.S. Pub. No. 2001/0004808) in view of Deutsch (U.S. 4,570,206). Hurwitz discloses the invention substantially as claimed and as previously discussed including a garment having wire-like electroluminescent lamp 2, disposed in sleeve 4A, attached thereto. Hurwitz additionally discloses lamp 2 may be arranged in virtually any design, such as lettering (page 4-5, para. 84). Hurwitz, however, fails to disclose the garment body having an independent decorative element formed thereon, so that sleeve 4A having lamp 2 cooperates with said element to form a decorative design. As visible in Figure 1, Deutsch teaches an electrically controlled optical display apparatus for an article of clothing comprising lamps 4, wherein said lamps are disposed along the outer contour of a design representing the hero of a comic strip, present applicant's independent decorative element formed on a garment (column 2, lines 55-62). Thus, Deutsch teaches the association of an illumination element with an independent decorative element on a garment to form a decorative design. It would have obvious to one having ordinary skill in the art at the time of the invention to incorporate sleeve 4A, containing lamp 2, into an independent design on a garment, as taught by Deutsch, because the combination embellishes and decorates the external appearance of a design on an article of clothing (column 1, lines 9-12).

22. Regarding claim 5, as Deutsch discloses the design could be any representation attached to, bonded on or drawn on the material of the garment (column 2, lines 55-62), the independent decorative element could be formed by a piece of fabric material, as

attaching any thing to the garment requires the use of a second fabric material of some sort.

23. Claims 8, 21 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hurwitz (U.S. Pub. No. 2001/0004808) in view of Miller et al. (U.S. 6,267,482). Hurwitz discloses the invention substantially as claimed and as previously discussed including a garment having wire-like electroluminescent lamp 2 disposed in sleeve 4A and attached thereto, wherein said garment may be used for safety and visibility purposes (page 4, para. 75). Hurwitz, in one embodiment, discloses electroluminescent lamp 2 secured to a vest or life jacket (Figure 5), wherein the lamp illumination provides high visibility to the user for increased safety (page 5, para. 87). Hurwitz, however, fails to disclose the garment body of said vest including a light reflecting portion, wherein the sleeve 4A and lamp 2 are disposed adjacent said light reflecting portion. Miller teaches a safety vest 12 provided reflective material 14 securely positioned thereto (column 3, lines 63-64). Underneath the strips of reflective material 14, LEDs 16 comprising a multiple light assembly are equally spaced (column 4, lines 9-11). Thus, it would have been obvious to one having ordinary skill in the art at the time of the invention to provide reflective material near an illumination source on a garment because the reflective material reflects the light produced by the illumination source, thereby making the wearer visible.

Conclusion

24. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure and is cited on form 892 enclosed herewith.

25. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jena A. Sold whose telephone number is (571) 272-8610. The examiner can normally be reached on Mon. - Fri. 9:00 A.M. to 5:00 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Welch can be reached on (571) 272-4996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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